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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,364	09/04/2003	Branislav Musicki	FRAV2002/0022US NP	1562
5487	7590	02/15/2006	EXAMINER	
ROSS J. OEHLER AVENTIS PHARMACEUTICALS INC. ROUTE 202-206 MAIL CODE: D303A BRIDGEWATER, NJ 08807			COLEMAN, BRENDA LIBBY	
			ART UNIT	PAPER NUMBER
			1624	
DATE MAILED: 02/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,364

Applicant(s)

MUSICKI, BRANISLAV

Examiner

Brenda L. Coleman

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-16, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-23 are pending in the application.

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on November 30, 2005 is acknowledged. The traversal is on the ground(s) that claims 1, 3-5, 7-16, 22 and 23 are all generic to both Groups I and II. This is not found persuasive because as pointed out in the restriction requirement mailed August 31, 2005, the tricyclic ring systems where $n = 1$ forming a 5-6-6 fused ring system, i.e. 3-oxo-2,5-methano-2H-1,2,4-benzotriazepine is different from the tricyclic ring systems where $n = 2$ forming a 5-6-7 fused ring system.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 17-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 30, 2005.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-5, 7-16, 22 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The following reasons apply:

- a) Claims 1-5, 7-16, 22 and 23 are vague and indefinite in that it is not known what is meant by the variables R_1 and R_2 in formula (I), which are not defined within the claim.
- b) Claims 1-5, 7-16, 22 and 23 are vague and indefinite in that it is not known what is meant by the definition of R_1 and R_2 . There are no variables R_1 and R_2 in formula (I).
- c) Claims 7-12 are vague and indefinite in that it is not known what is meant by the definition of R'_1 , which is "a precursor thereof".
- d) Claims 7-12 are vague and indefinite in that it is not known what is meant by the second occurrence of Y_{2p} .
- e) Claims 7-12 are vague and indefinite in that it is not known what is meant by the definition of R_2 and n which is stated as being defined above, which is not so.
- f) Claims 13 and 14 are vague and indefinite in that it is not known what is meant by the definition of R_2 and n which is stated as being as defined in claim 7, which is not so.
- g) Claim 13 is vague and indefinite in that it is not known what is meant by the definition of R'_1 , R_2 and n which is stated as being as defined above, which is not so.
- h) Claim 14 is vague and indefinite in that it is not known what is meant by the definition of A , R'_1 , R_2 , n and R'_3 which is stated as being as defined above, which is not so.
- i) Claims 15 and 16 are vague and indefinite in that it is not known what is meant by for use as a medicament on page 12 of the amendment filed November

30, 2005. A statement of intended use is not given material weight. Note In re
Tuominen 213 USPQ 89


Claim Objections

4. Claim 14 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must be stated in the alternative. See MPEP § 608.01(n).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda L. Coleman whose telephone number is 571-272-0665. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brenda L. Coleman
Primary Examiner Art Unit 1624
February 10, 2006